

REMARKS

I. Status of the Claims

Claims 3-8, 10-14, 17-19, 22-24, 27, 31-39, and 45-48 are currently pending in this application. Claims 45 and 47 have been amended. Applicant thanks the Examiner for the allowance of claims 3-8, 10-14, 17-19, 22-24, 27, 31-39, and 45-48. No new matter has been added. Favorable reconsideration and allowance of the pending claims are respectfully requested.

II. Rejections under 35 U.S.C. § 103(a)

Claims 45 and 47 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,891,855 to Bruckman ("Bruckman") in view of U.S. Patent No. 6,243,359 to Roy et al. ("Roy"). Applicant respectfully traverses the rejection for at least the following reasons.

Independent claims 45 and 47 each recite features involving the fragmentation of a packet according to a packet fragment size. The packet fragment size is determined according to a priority level. For instance, claim 45 recites "wherein said packet fragment size decreases as said priority level increases." However, claim 47 recites "wherein said packet fragment size increases as said priority level decreases."

Bruckman fails to disclose all of the features of claims 45 and 47. The Examiner admits to this shortcoming on page 3 of the Office Action. In particular, the Examiner states that "Bruckman does not teach that the fragment size decreases as the priority level increase [sic] or the fragment size increases as the priority level decreases." However, the Examiner asserts that Roy overcomes the shortcomings of Bruckman. Applicants respectfully disagree.

Roy involves queuing and congestion control techniques in asynchronous transfer mode (ATM) systems. ATM systems handle transmission units referred to as "cells". Unlike fragmented packets of claims 45 and 47, ATM systems employ a single fixed cell size. Moreover, Roy offers no teaching or suggestion regarding the fragmenting of cells. Instead, Roy merely discloses cells being discarded under certain conditions.

On page 3 of the Office Action, the Examiner states that Roy discloses that “packets are classified into a plurality of levels based on delay.” Notwithstanding the merits of this assertion, the mere disclosure of multiple priority levels fails to bridge the gap left by Bruckman.

More particularly, any such disclosure of multiple priority levels in Roy has nothing to do with packet fragmentation. As stated above, Roy discusses discarding packets, not fragmenting them. Beyond this, Roy lacks any discussion of fragment sizes or the basis upon which they should be set.

In addition to the technical distinctions set forth above, Applicant further asserts that the Examiner fails to provide any motivation or suggestion for combining Bruckman and Roy, as required by MPEP 2143. Bruckman and Roy involve divergent systems. Moreover, the Examiner does not set forth a clear line of reasoning or suggestion as to why it would have been desirable for a person of ordinary skill in the art to make the alleged combination of Bruckman and Roy, to arrive at the invention of claims 45 and 47.

For instance, on page 3 of the Office Action, the Examiner states that “those of skill in the art would have been motivated by Roy to classify the low priority packet into multiple priority levels by *assigning different Max_Wait to the different priority levels* to control network delay more efficiently.” (Emphasis added). However, this alleged rationale does not arrive at the features of claims 45 and 47. For instance, this rationale appears to assign delay times (i.e., Max_Wait), and not fragment sizes, to packets based on their priorities.

For at least the reasons given above, Applicant respectfully requests that the rejection of claims 45 and 47 be withdrawn.

III. Conclusion

Applicant respectfully submits that all of the stated grounds of rejection have been properly traversed accommodated or rendered moot. Applicant believes that a full and complete response has been made to the outstanding Office Action. However, Applicant hereby reserves the right to make additional arguments regarding distinctions between the claims and the cited references, taken alone or in combination.

Appl. No. 09/752,372
Response Dated August 8, 2006
Reply to Office Action of March 8, 2006

Thus, Applicant believes that the present application is in condition for allowance, and as such, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections, and allowance of this application.

Respectfully submitted,

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s/John A. Harroun/s
John A. Harroun, Reg. No. 46,339
Under 37 CFR 1.34(a)

Dated: August 8, 2006

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Date of Submission: August 8, 2006

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